



## DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 210

RIN 0710-AB39

Procurement Activities of the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers' part titled, "Procurement Activities of the Corps of Engineers." Each removed section is out-of-date, duplicative of existing regulations, and otherwise covers internal agency operations that have no public compliance component or adverse public impact. Regulations governing internal procurement activities can be found on file with the agency. Therefore, this part can be removed from the Code of Federal Regulations (CFR).

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This final rule removes from the CFR part 210 of title 33, "Procurement Activities of the Corps of Engineers." The rules at 33 CFR 210.1, 210.2, and 210.3 were published on December 7, 1961 (26 FR 11732) pursuant to Department of Defense procurement statutes, 10 U.S.C. Chapter 137. The regulation at 33 CFR 210.1 provides for procedures for advance notices to prospective bidders on certain construction contracts. The regulation at 33 CFR 210.2 provides for procedures to notify the successful bidder of the

acceptance of their bid. The regulation at 33 CFR 210.3 provides for procedures to issue a notice to proceed to contractors. The rule at 33 CFR 210.4 was initially published on January 14, 1975 (40 FR 2582), and amended on March 24, 1980 (45 FR 19202). The rule at 33 CFR 210.5 was published on March 24, 1980 (45 FR 19202). The regulations at 33 CFR 210.4 and 201.5 provide for the administration of appeals before the Corps of Engineers Board of Contract Appeals. While the rules apply only to the Corps' internal procedures, they were published, at that time, in the Federal Register to aid public accessibility.

The solicitation of public comment for this removal is unnecessary as the removed sections in this part are out-of-date, duplicative of existing regulations, and otherwise cover internal agency operations that have no public compliance component or adverse public impact. Sections 210.1, 210.2, and 210.3 are duplicative with and/or have been updated by the Federal Acquisition Regulation (FAR) subparts 5, 11, 14, and 15 which provide procedures for advance notice, notice of award, commencement, and completion of work. Sections 210.4 and 210.5 no longer apply. In addition, the Engineer Board was absorbed by the Armed Services Board of Contract Appeals in July 2000.

This removal is being conducted to provide clarity and reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' internal procurement activities. The removal of the regulation will ensure the Corps' policy complies with the existing FAR which can be found at the source provided in this SUPPLEMENTARY INFORMATION section. The regulation does not place a burden on the public; therefore, its removal does not provide a reduction in public burden or costs. This rule is not significant under Executive Order 12866, "Regulatory Planning and Review."

List of Subjects in 33 CFR Part 210

Administrative practice and procedure, Government procurement.

**PART 210—[REMOVED]**

Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 210.

Date: June 29, 2021.

Approved by: \_\_\_\_\_

Jaime A. Pinkham,

Acting Assistant Secretary of the Army

(Civil Works).

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